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COMMISSION ON HUMAN RIGHTS
Sub-Commission on Prevention of
Discrimination and Protection
of Minorities
Forty-ninth session
Agenda item 10(b)

FREEDOM OF MOVEMENT

HUMAN RIGHTS AND POPULATION DISPLACEMENTS

Mr. Boutkevitch, Ms. Daes, Mr. Eide, Mr. Lindgren Alves, Ms. Palley, Mr. Park, Ms. Warzazi, Mr. Weissbrodt and Mr. Yimer: draft resolution

1997/... Freedom of movement and population transfers

The Sub-Commission on Prevention of Discrimination and Protection of Minorities,

Reaffirming the right of everyone lawfully within the territory of a State to liberty of movement and freedom to choose his or her residence and the prohibition of arbitrary deprivation of the right to enter one's own country as set out in article 12 of the International Covenant on Civil and Political Rights and article 13 of the Universal Declaration of Human Rights,

Recognizing that practices of forcible exile, mass expulsion and deportation, population transfer, forcible population exchange, unlawful evacuation, eviction and forcible relocation, "ethnic cleansing" and other forms of forcible displacement of populations within a country or across borders not only deprive the affected populations of their rights to freedom of movement but also threaten the peace and security of States,

Recalling the Vienna Declaration and Programme of Action (A/CONF.157/23), adopted by the World Conference on Human Rights, and article 14 of the Universal Declaration of Human Rights, which reaffirm that everyone, without distinction of any kind, is entitled to the right to seek and to enjoy in other countries asylum from persecution, as well as the right to return to one's own country,

Recalling also its resolutions 1995/13 of 18 August 1995 and 1996/9 of 23 August 1996, in which it decided to continue its consideration of the question of population displacement and to keep under constant review any developments in the right to freedom of movement, including the right to seek asylum, the right to remain and the right to return,

Recalling further that in its resolution 1996/9 it requested the Secretary-General to convene an expert group seminar on population transfer,

Expressing its appreciation of the work and of the final report of the Special Rapporteur on human rights and population transfer, Mr. Awn Al-Khasawneh (E/CN.4/Sub.2/1997/23), as well as the conclusions and recommendations of the expert group seminar on the human rights dimensions of population transfer, held in Geneva from 17 to 21 February 1997, contained therein,

Noting that policies and practices of forcible displacement continue to be the major causes of refugee flows and the displacement of persons within States,

Concerned that the growing number of refugees and internally displaced persons worldwide poses a serious threat to peace and security and that restrictive policies of many States may lead to difficulties for people leaving their country in order to seek asylum, as well as to the detention of refugees and asylum seekers,

Noting the need to further rationalize and harmonize the various international standards in this complex and evolving area,

Convinced that a comprehensive strategy needs to be devised to implement the standards in tangible programmes of action within both a regional and national context,

1. Welcomes the final report of the Special Rapporteur on the human rights and population transfer (E/CN.4/Sub.2/1997/23) and the draft declaration on population transfer and the implantation of settlers annexed

thereto, as a first step towards defining the standards and legal norms pertaining to population transfer and the freedom of movement;

2. Welcomes the working paper on the right of freedom of movement and related issues prepared by Mr. Volodmyr Boutkevitch (E/CN.4/Sub.2/1997/22) as a contribution towards a comprehensive approach to combating policies and practices of forcible displacement;

3. Affirms the right of persons to be protected from forcible displacement and to remain in peace in their own homes, on their own lands and in their own countries;

4. Also affirms the right of refugees and internally displaced persons to return voluntarily, in safety and dignity, to their countries of origin and, within them, to their places of origin or choice, and urges Governments to assist in and facilitate such return;

5. Urges Governments and other entities involved to do everything possible to stop and prevent all practices of forced displacement, population transfer and "ethnic cleansing" in violation of international law;

6. Also urges all States to respect the principle of non-refoulement and to safeguard and give effect to the right of everyone to seek and to enjoy in other countries asylum from persecution;

7. Strongly encourages all Governments and other entities, including intergovernmental and non-governmental organizations, to intensify their cooperation and assistance to implement the relevant international standards in order to address the serious problems resulting from forcible displacement, and the root causes of such displacement;

8. Decides, in its further work on the right to freedom of movement, including the right to remain, the right to leave and seek asylum and the right to return, to examine the legal standards applicable to different types of forced displacement and any lacunae between those standards, in time for submission to the Sub-Commission at its fifty-first session;

9. Also decides to convene a further expert seminar, in close cooperation with relevant intergovernmental and non-governmental organizations and without financial implications, to assist in and to make practical recommendations for the further work of the Sub-Commission on the right to freedom of movement;

10. Further decides to recommend to the Commission on Human Rights that the final report of the Special Rapporteur on human rights and population transfer, Mr. Awn Al-Khasawneh, be published and widely disseminated;

11. Recommends to the Commission on Human Rights the following draft decision for adoption:

"The Commission on Human Rights approves decision 1997/... of the Sub-Commission on Prevention of Discrimination and Protection of Minorities and recommends to the Economic and Social Council that the final report of the Special Rapporteur on human rights and population transfer be published and widely disseminated."

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